

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 23 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

SALVADOR VASQUEZ-GARAY,

Defendant - Appellant.

No. 05-50268

D.C. No. CR-04-00984-WJR

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
William J. Rea, District Judge, Presiding

Submitted August 16, 2006^{**}
Pasadena, California

Before: KOZINSKI, O'SCANNLAIN, and BYBEE, Circuit Judges.

Appellant Salvador Vasquez-Garay appeals his conviction and a condition of the term of supervised release imposed by the district court for being an alien who

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

improperly entered the United States. The facts and procedural history are known to the parties, and we do not repeat them here.

First, the district court did not abuse its discretion by denying Vasquez-Garay's motion to withdraw his guilty plea, because he has not presented a "fair and just reason" to support the motion "that did not exist when the defendant entered his plea," *see United States v. Ortega-Ascanio*, 376 F.3d 879, 883 (9th Cir. 2004) (internal quotation marks omitted), and he long delayed in filing his motion, *see United States v. Nostratis*, 321 F.3d 1206, 1211 (9th Cir. 2003).

Second, the district court's imposition of a sentencing condition ordering Vasquez-Garay to report to his probation officer upon re-entry did not violate the Fifth Amendment right against self-incrimination. *See United States v. Rodriguez-Rodriguez*, 441 F.3d 767, 773 (9th Cir. 2006).

AFFIRMED.